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6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 NICOLE MAYS,

13 Defendant.

) No. CR 07-295 MAG

) STIPULATION AND [PROPOSED]
) ORDER CONTINUING TRIALDATE

) Date: March 12, 2007

) Time: 8:30 a.m.

) Court: The Honorable Elizabeth
) D. Laporte

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16 **STIPULATION AND PROPOSED ORDER**

17 The parties hereby agree and request this Court to continue the trial in the above captioned
18 matter from March 12, 2008 at 8:30 a.m. to April 14, 2008, April 16, 2008, or at any time during the
19 weeks of April 14th or April 21st convenient to the Court. The continuance is requested by the defense
20 for two reasons.

21 First, on Friday, February 8, 2008, Ms. Mays found out that her husband Robert Perez is
22 scheduled for invasive back surgery on February 28, 2008, due to a recently discovered breach in an
23 old spinal cord fusion that needs to be fixed forthwith. Mr. Perez is undergoing the surgery to repair a
24 spinal column fuse and fix two slipped disks, according to Dr. McCormack, his primary care doctor.
25 See Falk Declaration, filed herewith, at Exhibit A, at ¶3. The surgery is very serious, and will
26 require Mr. Perez to be completely bedridden for, at minimum, "several weeks," according to
Mariana, the nurse at Dr. McCormack's office. *Id.* at ¶4. Ms. Mays will work a reduce schedule

1 during those weeks, and act as her husband's caretaker while he is bedridden. *Id.* at ¶5. If trial
2 moves forward on schedule, Ms. Mays will need to be preparing for trial on a daily basis at that time
3 of Mr. Perez' surgery and immediate aftercare. *Id.* at ¶6. Defense counsel believes that Ms. Mays
4 will not be able to focus her attention on the trial, due to her caretaking responsibilities in the early
5 morning, afternoon and evening. *Id.* at ¶7. Ms. Mays accordingly requests a continuance of the trial
6 until Mr. Perez is able to move around, which we estimate as four weeks after surgery. *Id.* at ¶8.
7 Following that time, Ms. Mays asks for an additional week to prepare for trial. *Id.* at ¶9.

8 Second, the defense needs additional time to arrange for a fingerprint expert to print the items
9 located in Ms. Mays' car. Currently, counsel for the government is arranging for the physical
10 evidence in the case to be produced, and the parties will make arrangements for testing as soon as
11 possible. *Id.* at ¶10.

12 For these reasons, defense counsel requests a continuance of the trial to either April 14 or April
13 16, 2007 at 8:00 a.m., or at a time during the weeks of April 14th or April 21st that is convenient to the
14 Court. Government counsel has no objection to the request.

15 Pursuant to 18 U.S.C. § 3161(h)(8)(A) and 18 U.S.C. § 3161(h)(8)(B)(iv), the parties jointly
16 request that this Court exclude the period of time between March 12, 2008 up to and including April
17 16, 2008 (or any day selected by this Court for trial) under the Speedy Trial Act. Specifically, the
18 parties request this Court to find that the ends of justice served by granting the continuance and
19 guaranteeing the defendant effective preparation of counsel through the procurement of an expert
20 witness outweighs the best interest of the defendant and the public in a speedy trial in this matter.

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22 It is so stipulated.

23 DATED:

24 /S/
ELIZABETH M. FALK
25 Assistant Federal Public Defender
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DATED:

WENDY THOMAS
Assistant United States Attorney

[PROPOSED] ORDER

For the aforementioned reasons, the trial in the above captioned case is continued to _____ at 8:30 a.m. In addition, pursuant to 18 U.S.C. § 3161(h)(8)(A) and 18 U.S.C. § 3161(h)(8)(B)(iv), this Court hereby excludes the period of time between March 12, 2008 and _____ under the Speedy Trial Act. For the reasons stated in this stipulation, this Court finds that the ends of justice served by granting the continuance and guaranteeing the defendant effective preparation of counsel through the procurement of an expert witness outweighs the best interest of the defendant and the public in a speedy trial in this matter.

IT IS SO ORDERED.

DATED: _____

THE HONORABLE ELIZABETH D. LAPORTE
UNITED STATES MAGISTRATE JUDGE